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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------|
| 10/043,561 | 01/08/2002 | Donald J.K. Olgado | AMAT/6060/CALB/COPPER/PJS | 7947 |
| 32588 | 7590 | 01/08/2004 | EXAMINER CHEN, KIN CHAN | |
| APPLIED MATERIALS, INC. 2881 SCOTT BLVD. M/S 2061 SANTA CLARA, CA 95050 | | | ART UNIT 1765 | PAPER NUMBER |

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/043,561

Applicant(s)

OLGADO ET AL.

Examiner

Kin-Chan Chen

Art Unit

1765

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheets.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

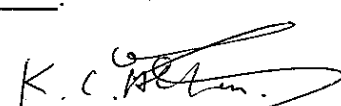
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Kin-Chan Chen
Primary Examiner
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Responses to request-for-reconsideration-after-final

1. Applicant has argued the cited case law is applicable for combining two compositions to form the third composition rather than combining two processes when each of which is used for the same purpose. It is not persuasive. The **obviousness** of applying two known process steps sequentially or simultaneously is clearly analogous to applying two known compositions. Therefore, as has been stated in the office action, It would have been obvious to one with ordinary skill in the art to use conventional wet etching process, dry etching process or **combinations thereof** (such as perform them sequentially) because each of which is taught by Roberts to be used for same purpose of planarizing a metal conductor layer on a top surface of a substrate.


2. In response to applicant's argument that there is no suggestion to combine Roberts et al. and Contolini et al. (or Nishibe et al.), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found **either in the references themselves or in the knowledge generally available to one of ordinary skill in the art**. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the method described in Contolini et al. (or Nishibe et al.) is **the knowledge generally available to one of ordinary skill in the art** because it is notoriously well-known (conventional) method in the art of semiconductor device fabrication.

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3. Applicant has argued that the combined prior art does not teach claimed invention and recite each claim. However, mere reiteration of claim recitation does not constitute an argument within the meaning of 37 CFR 1.192(c) (7)(8).

In light of the comments above, the obviousness rejections are maintained.

January 2, 2004


KIN-CHAN CHEN
PRIMARY EXAMINER